

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL TWIGGS : CIVIL ACTION
v. :
PENNSYLVANIA BOARD OF PROBATION : NO. 20-3683
AND PAROLE, et al.

ORDER

AND NOW, this 18th day of May , 2021, upon careful and independent consideration of the petition for writ of habeas corpus, it is hereby ORDERED that:

1. The Report and Recommendation of U.S. Magistrate Judge Elizabeth T. Hey is APPROVED and ADOPTED.
2. The petition for writ of habeas corpus is DENIED.
3. There is no basis for the issuance of a certificate of appealability.

The well-reasoned Report and Recommendation is further supported by the decision of the Supreme Court in Jones v. Mississippi, 593 U.S. ____ (2021), which was handed down on April 22, 2021, the same day as the Report and Recommendation. The Supreme Court held that a defendant under 18 years of age at the time of the homicide may receive a life sentence without parole as long as the sentence was not mandatory. The sentencing judge need not explain his or her reasoning on the record.

Here the re-sentence of the defendant Michael Twiggs was negotiated and was 35 years to life. The state court judge conducted a hearing and enunciated her reasoning before approving the new sentence. Several months later, defendant was released on lifetime parole. While admittedly lifetime parole is onerous, it is not for this court to second-guess the state court in this regard or to delve into the state sentencing regimen beyond what the federal Constitution requires.

In sum, defendant is not serving a mandatory life sentence without parole, and thus there is no violation of the Eighth and Fourteenth Amendments of United States Constitution.

BY THE COURT:

/s/ Harvey Bartle III

HARVEY BARTLE III, J.